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SIPDIS

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SIPDIS

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TAGS: [SNAR](#) [EFIN](#) [PGOV](#) [KCRM](#) [KCOR](#) [KTFN](#) [KZ](#)

SUBJECT: KAZAKHSTAN: 2006-2007 INSCR, PART II, FINANCIAL CRIMES AND  
MONEY LAUNDERING

REF: STATE 157136

ASTANA 00000591 001.2 OF 004

¶1. In response to reftel instructions, the text of Part II of the  
2006-2007 International Narcotics Control Strategy Report (INSCR),  
Financial Crimes and Money Laundering for Kazakhstan follows.

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SUMMARY  
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¶2. Kazakhstan, with its developed and modern banking system, has  
become a financial center in Central Asia. Kazakhstan's economic  
success along with its geographic location, however, also make  
fighting organized crime, extremism, narcotics trafficking, and  
terrorist financing more challenging. Despite the challenges,  
Kazakhstan is taking proactive measures to police financial crimes.  
The Government of Kazakhstan has developed a draft law on Anti-Money  
Laundering and is planning to establish a Financial Intelligence  
Unit. In general, the GOK remains a willing partner in the fight  
against narcotics and terrorism. End summary.

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GENERAL QUESTIONS  
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REGIONAL FINANCIAL CENTER  
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¶3. On June 5, 2006 the Parliament enacted and the President signed a  
law establishing a regional financial center in Almaty (RFCA),  
thereby achieving one of the strategic goals that President  
Nazarbayev established in November 2004. The RFCA is to develop the  
Kazakhstani securities market, facilitate Kazakhstan's integration  
into international markets, attract investments into the local  
economy, and introduce Kazakhstani assets into the global securities  
market. In addition, currently under discussion is the  
establishment of a specialized financial court within the RFCA to  
adjudicate disputes arising from activity in the market there.

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OFFSHORE FINANCIAL CENTERS

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14. Kazakhstan is not an offshore financial center. There are no offshore companies or banks in the country. Existing legislation does not favor offshore banks and offshore financial centers. There are foreign banks in the country, including Dutch, Turkish, and Russian-based financial institutions.

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FREE TRADE ZONES  
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15. Based on the Free Trade Zone Agreement signed by the Heads of CIS countries in Moscow on April 15, 1994, Kazakhstan has signed separate Free Trade Zone agreements with Azerbaijan, Belarus, Georgia, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan. The main function of the Free Trade Zones is to create an easy flow of goods and services between CIS countries, to stabilize internal economies, and to balance mutual trade on mutually advantageous terms. It is not known whether these free trade zones are being used in trade-based money laundering schemes or by those who finance terrorism.

16. According to a March 2006 Interfax-Kazakhstan news agency report, China opened the Maikapchagai-Zimunai cross border shopping area on the border with East-Kazakhstan oblast (EKO). The EKO Department for Entrepreneurship and Industry announced that the shopping center was officially opened on March 28 under the agreement signed between the administration of the Altay district of the Xinjiang Uygur Autonomous Region of China and the EKO akimat (administration) on January 26, 2006. Kazakhstani citizens do not need a visa for a one-day visit to the shopping area. Kazakhstani shoppers may carry goods under 50 kilos and less than \$1,000 in value duty-free back to Kazakhstan. At the same time, residents of Kazakhstan may bring goods to the Chinese border marketplace valued less than 50,000 tenge (\$400) duty-free, or goods worth 80,000 tenge

ASTANA 00000591 002.2 OF 004

at a reduced customs rate. If the value of goods is above 80,000 tenge (\$630) they are subject to all Chinese taxes and duties.

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LAW AND REGULATIONS TO PREVENT MONEY LAUNDERING  
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17. Kazakhstan has ratified the 1988 UN Drug Convention, and in December 2000 the country signed the UN Convention against Transnational Crime. On February 24, 2003, Kazakhstan ratified the UN International Convention for the Suppression of the Financing of Terrorism. Kazakhstan is also a signatory to the Central Asian Agreement on the Joint Fight Against Terrorism, Political and Religious Extremism, Transnational Organized Crime and Illicit Drug Trafficking, signed in April 2000 by Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan.

18. Money laundering is criminalized in Kazakhstan by Article 193 of the Criminal Code of the Republic of Kazakhstan. The definition of money laundering used in the act, however, is narrow and the sanctions against it relatively light (a maximum of three years imprisonment, increased to five for multiple offences). A further limit to the effectiveness of the law is that bank records may not be examined until after a criminal case has been initiated. However, a draft of the Anti-Money Laundering and Countering Financing of Terrorism legislation (AML/CFT) states that all banks will be legally required to send information on all suspicious transactions to the Financial Intelligence Unit (FIU) for analysis.

19. Kazakhstan is gradually making steps towards the adoption of the draft AML/CFT law and the establishment of an empowered FIU. The adoption of the AML/CFT legislation was made a high priority by President Nazarbayev last year, and the Procurator General's Office took the lead on drafting the AML/CFT legislation and in establishing the proposed Financial Intelligence Unit (FIU). The Procurator General's Office expects the legislation on AML/CFT, introduced in September 2005, to be passed sometime in 2007.

¶10. However, the Parliament postponed consideration of the draft law until completion of implementation of the Law "On Amnesty related to legalization of property" adopted July 5, 2006. The delay is to give citizens the opportunity to legalize property from the "shadow economy." According to news reports from October 27, the amnesty period has been extended until April 2007. Under the terms of the amnesty legislation, citizens seeking to legalize property must pay a duty of 10% of its cost. This rule does not apply to residential homeowners, whose property is legalized at no cost.

¶11. The fact that the Procurator General's Office, the most powerful and influential law enforcement body in the country, coordinated the drafting of the AML/CFT legislation indicates that Kazakhstan has a vested interest in controlling money laundering. The Procurator General's Office has taken on the responsibility within the GOK to ensure that the provisions of the AML/CFT law and the function of the FIU will meet international standards and become effective means of combating money laundering and related financial crimes.

¶12. According to the draft AML/CFT law, a Kazakhstani FIU, entitled the "Committee on Financial Monitoring," will be established within and controlled by the Procurator General's Office. The Procurator's Office received funding from the GOK budget for 60 employees who will work at the central FIU in Astana, and for another 30 employees who will work in the regions. The FIU personnel will be chosen from existing procurators as well as from elsewhere in the government, including the Financial Police, the Ministry of Finance, and Customs. A unified reporting system among various governmental agencies, including the Financial Police and the Ministry of Finance, will be established to funnel the information received from these agencies to the FIU. Additionally, the Procurator's Office intends to supply Kazakhstani banks and the FIU with the names of individuals and organizations identified in terrorist watch lists. There is a plan to establish a separate restricted-access FIU building in Astana. In the interim, however, the FIU will be located in the Procuracy building in Astana.

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FINANCIAL SECTOR

ASTANA 00000591 003.2 OF 004

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¶13. The Presidential Decree of February 25, 2005 re-organized the Agency on Combating Economic Crimes and Corruption into a separate governmental agency reporting directly to the President.

¶14. Presently, the Agency on Combating Economic Crimes and Corruption, the Procurator General's Office, and the Agency for the Regulation and Inspection of the Financial Market and Financial Organizations are authorized to supervise all aspects of financial institutions. In the future, the supervision and examination of financial institutions for compliance with AML/CFT laws and regulations will be the responsibility of the Procurator General's Office.

¶15. Currently, banks and other financial institutions are not required to know, record, or report the identity of customers engaged in significant transactions. It is hoped that the new AML/CFT law will remedy this problem by requiring all banks to send any information regarding suspicious transactions to the FIU.

¶16. The Agency for the Regulation and Inspection of the Financial Market and Financial Organizations, in conjunction with a new regulation adopted on August 27, 2005 defines the requirements for maintaining adequate time records necessary to reconstruct significant transactions through financial institutions. Second-tier banks, for example, are required to keep records for five years on correspondence regarding the opening of currency accounts and investment activities, deals made through export and import operations, and documents related to payments made to foreign and international banks and organizations.

¶17. Statutory requirements for limiting and monitoring the international transportation of currency and monetary instruments, as well as all cross-border currency reporting requirements, are governed by the Rules on Currency Transactions of April 20, 2001,

and by the Rules on Declaring Foreign and National Currency by Individuals Entering and Leaving the Republic of Kazakhstan of May 13, 2004. According to the Rules, a Kazakhstani resident is required to fill out a declaration form if he/she is planning to leave the country with more than \$3,000 equivalent in foreign currency and must provide supporting documents verifying the source of funds if taking more than \$10,000 out of the country. Non-residents leaving Kazakhstan are also allowed a maximum of \$3,000 without submitting a declaration form. The amount of national currency that may leave the country with Kazakhstani residents or non-residents is unlimited, and there are no reporting requirements. There are no limitations or reporting requirements on the amounts of national or foreign currency being transported into the country by either residents or non-residents.

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**TERRORIST FINANCING**  
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**¶18.** Kazakhstan acceded to the "International Convention on Suppressing the Financing of Terrorism" in October 2002. Kazakhstan is also considering accession to the Strasbourg Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

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**CASH SMUGGLING**  
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**¶19.** Article 209 on Economic Contraband of the Criminal Code of the Republic of Kazakhstan stipulates that any illegal contraband (including currency) that crosses the borders of Kazakhstan under false pretext with falsified documentation may result in the confiscation of property, a fiscal penalty, arrest, and/or a jail sentence of up to three years. The severity of the punishment is based on several factors including whether the action is a repeat offence or if it is connected to the activities of an organized crime group.

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**ASSET FORFEITURE AND SEIZURE LEGISLATION**  
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**¶20.** Criminal and civil forfeitures are defined by the Criminal and Civil Codes of the Republic of Kazakhstan. Article 31 of the Law on Combating Narcotics, Psychotropic Substances, and Precursors stipulates that narcotics or psychotropic substances and precursors

ASTANA 00000591 004.2 OF 004

as well as the means of producing illegal narcotic substances, including property and finances, are subject to seizure by the government.

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**INTERNATIONAL COOPERATION**  
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**¶21.** In 2005, the U.S. Government assisted Kazakhstan's anti-money laundering and crime efforts in several ways through the Embassy office of the Bureau of International Narcotics and Law Enforcement (INL).

**¶22.** In March 2005, INL funded a computer laboratory at the Financial Police Academy in Astana. The Academy specializes in training future financial police and customs officers in the skills required to recognize and investigate money laundering schemes as well as to combat corruption and other economic crimes. The computer laboratory is an important resource for future INL trainings as well as for the Academy itself. Enhancement of the Financial Police Academy provides a long-term impact on the GOK's ability to effectively police its financial system and to control money laundering related to terrorism, narcotics trafficking, tax evasion, and corrupt activities by GOK officials.

**¶23.** In September 2005, under the auspices of INL, personnel from the Federal Law Enforcement Training Agency (FLETC) trained the faculty of Kazakhstan's Financial Police Academy on investigative techniques

related to financial crimes. This training will enhance the ability of the Academy's faculty to teach such techniques to its students.

¶124. In May and September 2005, INL, in cooperation with the Procurator General's Office, held a series of four seminars at the Procurator General's Offices in both Almaty and Astana on the draft AML/CFT legislation and the establishment of a Financial Intelligence Unit. The goal of these seminars was to help the GOK develop the regulatory structure needed to enforce the provisions of the AML/CFT legislation, to prepare the GOK to enter various FATF-related organizations, to train second-tier banks to meet AML/CFT requirements, and to help the GOK establish an effective FIU. The lead training agency was the Office of Technical Assistance of the United States Department of Treasury (OTA).

¶125. Training and equipment was provided to the Statistics Division of the Procurator General's Office, which targets drug trafficking organizations operating in Kazakhstan. In November 2005, computer equipment was distributed throughout Kazakhstan to 17 different branches within the Statistics Division. This commodities handover was part of a larger project aimed at improving the collection of criminal statistics in Kazakhstan, especially those germane to the evaluation of INL projects related to the GOK's efforts to combat narcotics trafficking and anti-money laundering activities.

¶126. The GOK is a willing partner in the fight against terrorism, and it is making major strides to identify potential money laundering activities connected to international terrorism and narcotics trafficking. If adopted and implemented, the draft AML/CFT legislation and the establishment of an FIU will help Kazakhstan become an active member in the Egmont Group and the Eurasian Group (EAG).

ORDWAY